

**PLANNING AND ZONING COMMISSION  
MEETING MINUTES**

**January 31, 2005**

**MEMBERS PRESENT:** Emery Zahner, Cliff Aucter, Robert Hoffman, Mort Heidari and Alternates Ronald Small and Arlo Hoffman

**MEMBERS ABSENT:** Geri Kupecky, Lori Spielman and Alternate James Prichard

**STAFF PRESENT:** Matt Davis, Town Planner and Kristin Michaud, Recording Secretary

**I. CALL TO ORDER**

Chairman Zahner called the Planning & Zoning Commission (PZC) meeting to order at 7:03 PM at the Ellington Town Hall Annex Meeting Room, 57 Main Street, Ellington, CT.

**II. PUBLIC COMMENTS:**

Ronald Small, 136 ½ Tripp Road, reported that fill was being imported to a parcel at this subdivision by a local pool company. He also said that debris and other materials were on site, and that the developer was failing to properly correct the situation. Chairman Zahner will inspect the site. The Town Planner noted that he had spoken to the builder at least twice weeks ago about the situation, but has not received an adequate reply. The planner suggested a letter to the developer from the commission might get a better response. The planner will send a letter to the builder for the commission requesting action.

**III. PUBLIC HEARINGS:**

1. #Z200436 – Dzen Brothers, Inc. for site plan approval and special permit for construction of green houses with associated gravel parking areas, second curb cut and drainage facilities in conjunction with an existing retail facility on property located at 187 Windsorville Road & 8 Pinney Street, APN 009-041-0000, 009-042-0000, in a PC Zone.

The planner noted that this hearing has been closed. Wetlands has approved their application, but ZBA needs to act on 2/7/05 before Planning and Zoning can take action. The item will be on the Planning and Zoning Commission's 2/28/05 agenda.

2. #Z200446 – Development Services, LLC & Ellington Developers, LLC for a zone change to ARCHZ/Age Restricted Cluster Housing Zone including conceptual site plan approval on property located on Windermere Ave, APN 017-004-0000 & 018-003-0000, in an IP Zone.

**TIME:** 7:07

**SEATED:** E. Zahner, C. Aucter, M. Heidari, R. Small (A. Hoffman – Recused)

Attorney Walter Twachtman, came forward to give an overview of the application. The parcel is 41.7 acres on Windermere Avenue. The front 26 acres is owned by Valley Farms and the

remaining acres are owned by the Carter family. The WPCA has conceptually approved the sewer allocation.

Andy Greene, Licensed Engineer, reviewed the existing conditions. Sewer and water serves the property. There will be 133 units, at 3.2 units per acre. There is 38.1 acres of developable land on the site. The access will be off Windermere Avenue. It will be a private roadway network with curbsless roadways. They will have a community center on site. There will be a detailed landscaping plan. There will be a green space of 10.5 acres. The layout might change.

Nicholas Michnevitz, Architect, reviewed the designs of the proposed homes. The homes will range from 1,600 square feet to 2,400 square feet. There will be a choice of four homes. He reviewed the floor plans and explained each house design. Each home will have a full basement. All master bedrooms are on the first floor of each home.

Scott Hesketh, Traffic Engineer, F.A. Hesketh Associates, explained the amount of traffic flow with and without this development. He stated there will be a reduction of trips during peak hours which will result in less traffic.

Jay Fisher, Development Services, LLC, came forward and explained tax benefit analysis, age bracket comparisons.

Attorney Walter Twachtman, noted that they have reviewed the plan with the Conservation Commission and received some preliminary comments.

C. Aucter was concerned with the density of the units. He would like more room between homes. He also believes that if it is an Industrial Zone, it should be kept that way.

R. Small agreed that there are too many units on the site.

Several members of the public expressed their support for the project, but generally agreed the density is too high.

**MOVED (SMALL), SECONDED (AUCTER) AND PASSED TO CLOSE THE PUBLIC HEARING FOR #Z200446 – DEVELOPMENT SERVICES, LLC & ELLINGTON DEVELOPERS, LLC.**

**MOVED (SMALL), SECONDED (HEIDARI) AND PASSED (C. AUCTER – OPPOSED) TO APPROVE #Z200446 – DEVELOPMENT SERVICES, LLC & ELLINGTON DEVELOPERS, LLC ZONE CHANGE AND CONCEPT PLAN APPROVAL.**

3. #Z200447 – Pioneer Builders of Ellington, Inc. for a zone change to ARCHZ/Age Restricted Cluster Housing Zone including conceptual site plan approval on property located at 22 Maple Street, APN 073-014-0000 in a PC Zone.

**TIME:** 8:30

**SEATED:** E. Zahner, C. Aucter, M. Heidari, R. Small and A. Hoffman

Attorney Capossela, came forward to explain why the zone should be changed to Age Restricted Cluster Housing Zone. He also stated that they would be giving 5 acres to the town for a future senior center. The WPCA has conceptually approved the sewer allocation.

Michelle Carlson, Fuss & O'Neil, gave an overview of the existing site conditions and concept plan. There 50 units in 26 ½ acres, the subject property is served by sewer and water. Tom Savage handed out architectural plan for the different units.

Members of the audience and commission members expressed very serious concerns relating to ground water elevations, seeps/springs and the overall need to carefully consider storm water management when the detailed plans are developed.

**MOVED (AUCTER), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #Z200447 – PIONEER BUILDERS OF ELLINGTON, INC.**

**MOVED (SMALL), SECONDED (HEIDARI) AND PASSED (C. AUCTER – OPPOSED) TO APPROVE #Z200447 – PIONEER BUILDERS OF ELLINGTON, INC ZONE CHANGE AND CONCEPT PLAN APPROVAL.**

4. #Z200448 – Great Country Garages for a site plan approval and special permit to construct a building for fabrication and assembly of accessory buildings on property located at 210 West Road, APN 037-002-0000 in a PC Zone.

**TIME:** 9:25

**SEATED:** E. Zahner, C. Aucter, M. Heidari, R. Small and A. Hoffman

Tim Coon, J.R. Russo & Associates, came forward for the applicant. He explained the proposal. There will be a display area for the garages in the front portion of the site and the rear portion would be storage and the fabrication building. Wetlands has approved the application and the Planning and Zoning Commission previously approved a rezone of the rear portion. The rear portion will not be accessible to the general public.

C. Aucter wanted to know about the landscaping and screening along the South property line. Tim Coon explained that they would be installing a fence and building a stone wall in the front.

**MOVED (AUCTER), SECONDED (SMALL) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR #Z200448 – GREAT COUNTRY GARAGES.**

**MOVED (AUCTER), SECONDED (SMALL) AND PASSED UNANIMOUSLY TO APPROVE WITH CONDITIONS #Z200448 – GREAT COUNTRY GARAGES.**

**CONDITIONS: SUBJECT TO JIM THOMPSON'S LETTER OF 1/28/05 AND PAM LOMBARDO MEMO OF 1/28/05.**

## **VI. UNFINISHED BUSINESS**

1. #Z200435 – Cathy Pinard for a special permit for a 30' x 38' 3 door detached garage with 10' x 30' lean to on property located at 65 Sandy Beach Road, APN 151-005-0001 in an RA Zone.

Wetlands has re-approved the plan.

**MOVED (AUCTER), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO APPROVE #Z200435 – CATHY PINARD.**

2. #Z200445 – Landmark Surveys for site plan approval to add gravel parking area and amesite parking area on property located at 100 West Road, APN 028-010-0000 in a C Zone.

Rachel Hoffman, Landmark Surveys, received the proposal.

Chairman Zahner read Jim Thompson's letter dated 01/28/05 approving of the storm water design and plan.

**MOVED (AUCTER), SECONDED (HEIDARI) AND PASSED (A. HOFFMAN – RECUSED) UNANIMOUSLY TO APPROVE #Z200445 – LANDMARK SURVEYS.**

#### **V. NEW BUSINESS**

1. #Z200501 – Dzen Brothers, Inc. for a special permit to allow retail sale and consumption of ice cream on property located at 187 Windsorville Road and 8 Pinney Street, APN 009-041-0000 & 009-042-0000 in a PC Zone.

**BY CONSENSUS, THE COMMISSION NOTED RECEIPT OF THE ABOVE APPLICATION AND SET THE PUBLIC HEARING FOR THE FEBRUARY 28, 2005 REGULAR MEETING.**

2. CGS- 8-24 Purchase of Skipper Property Porter Road, APN 124-002-0000.

The planner reported the conservation commission support and that this would finish up the grant money from the DEP.

**MOVED (HEIDARI), SECONDED (AUCTER), AND PASSED UNANIMOUSLY TO APPROVE CGS – 8-24 PURCHASE OF SKIPPER PROPERTY, PORTER ROAD, APN 124-002-0000.**

3. Request for a 90-day extension to file mylars for Crestwood IV Subdivision. (S200412 – Ellsworth Lane & Benjamin Drive)

**MOVED (AUCTER), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO ADD TO THE AGENDA: REQUEST FOR FINAL APPROVAL OF CRESTWOOD IV SUBDIVISION.**

**MOVED (AUCTER), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO GRANT A 90-DAY EXTENSION FOR CRESTWOOD IV SUBDIVISION MYLAR FILING AND TO GRANT FINAL APPROVAL SUBJECT TO COMPLETION OF ALL ADMINISTRATIVE REQUIREMENTS PRIOR TO MYLAR RELEASE FOR RECORDING ON THE LAND RECORDS.**

4. #S200407—Gingras Development, LLC request for approval of Rye Field Estates appraisal fee in lieu. (Crane Road)

**MOVED (AUCTER), SECONDED (HEIDARI) AND PASSED UNANIMOUSLY TO ADD TO THE AGENDA: REQUEST FOR A 90 DAY EXTENSION FOR FILING THE MYLAR GINGRAS DEVELOPMENT, LLC.**

The Commission reviewed the appraisal, the planner's memo in regards to the appraisal, and the planner reviewed the appraisers reply. The Commission felt the pre-development value was low and in that the appraiser and builder were not available to discuss the matter, the Commission agreed to use the purchase price as the predevelopment value provided by the appraiser. If the builder and appraiser object, the Commission suggested that they appear before the Commission

to answer questions and provide further justification for the pre-development value provided by the appraiser. The planner will advise the builder accordingly and report back to the Planning & Zoning Commission. The planner noted that this would not delay the project as the builder has reported he will proceed with site development without posting a bond and recording the mylar, so no lots may be offered for sale or conveyed. The fee in lieu will need to be resolved prior to release of the mylar for recording in the land records.

**MOVED (SMALL), SECONDED (AUCTION) AND PASSED UNANIMOUSLY TO APPROVE A 90 DAY EXTENSION FOR FILING THE MYLAR FOR GINGRAS DEVELOPMENT, LLC.**

**MOVED (HEIDARI), SECONDED (SMALL) AND PASSED UNANIMOUSLY TO APPROVE RYE FIELD ESTATES FEE IN LIEU OF OPEN SPACE BASED ON A PREDEVELOPMENT VALUE OF \$350,000.**

5. Review of open space fee in lieu appraisal and owner request to defer Open Space Fee-in-Lieu payments Rachel Lee Wheeler-Rossow. (S200402 - Cranberry & Overhill Road).

Attorney Bruce Fader requested that the value of the fee in lieu for lot 4 be deferred until lot 4 is subdivided. The Commission disagreed and requested that the fee for lot 4 be paid at conveyance of lot 4, based on the current pre-development value determined by Mr. Stewart's appraisal. Dennis Milanovich suggested that no open space fee be required at all for lot 4. The Chairman noted that the Planning & Zoning Commission had received strong criticism from certain parties for not charging sufficient fees for open space and would therefore try to require fees on a consistent basis.

**MOVED (HEIDARI), SECONDED (HOFFMAN) AND APPROVED 4-1 (C. AUCTION – OPPOSED) TO ACCEPT THE APPRAISAL DATED 11/18/04, TO ALLOCATE FEES IN LIEU AS HEREIN NOTED AND TO COLLECT THE REQUIRED FEE IN LIEU OF OPEN SPACE FOR LOT 4 IN THE AMOUNT OF \$33,178 UPON CONVEYANCE OF LOT 4, AND TO REQUIRE THE FINAL SUBDIVISION MYLAR AND DEED FOR LOT 4 TO REFLECT THIS REQUIREMENT. THE TOTAL FEE FOR LOTS 1, 2, & 3, SHALL BE \$9,822. TO BE ALLOCATED EQUALLY 1/3 TO EACH LOT 1, 2, & 3 AND PAID AT CLOSING (\$3,274. EACH)**

6. Request for final approval of Oakhill Estates Subdivision. (S200213 – Mountain Street))

The planner noted that final approval needed to be limited to the plan as originally approved by the Planning & Zoning Commission.

**MOVED (AUCTION), SECONDED (SMALL) AND PASSED UNANIMOUSLY TO GRANT FINAL APPROVAL OF OAKHILL ESTATES SUBDIVISION SUBJECT TO JIM THOMPSON'S MEMOS OF 1/31/05 AND 1/26/05 INCLUDING A BOND AMOUNT OF \$346,000.**

7. Release of Savona Surety Bond for 89 West Road.

The planner noted that the Zoning Enforcement Officer has inspected the site and that all required work has finally been completed per the bond agreement.

**MOVED (AUCTION), SECONDED (SMALL) AND PASSED UNANIMOUSLY TO RELEASE SAVONA SURETY BOND FOR 89 WEST ROAD, BASED UPON THE RECOMMENDATION OF THE ZEO.**

8. Budget Preparations for FY 05-06.

**IT WAS AGREED TO INCLUDE THE FOLLOWING REQUESTS IN THE COMMISSIONS FY 05-06 BUDGET**

- 1. \$75,000 FOR PLAN OF CONSERVATION AND DEVELOPMENT UPDATE (CONSULTANT SERVICES)**
- 2. \$75,000 FOR ZONING AND SUBDIVISION REGULATION AMENDMENTS. (CONSULTANT SERVICES)**

9. Request for 180-day extension for High Ridge II Re-subdivision. (S200408 – Ridge Drive)

**MOVED (SMALL), SECONDED (HOFFMAN) AND PASSED UNANIMOUSLY TO GRANT A 180-DAY EXTENSION FOR MYLAR RECORDING FOR HIGH RIDGE II RE-SUBDIVISION.**

**VI. ADMINISTRATIVE BUSINESS:**

1. Election of Officers

The Chairman asked for nominations from the floor.

**MOVED (AUCTIONER), SECONDED (SMALL) AND PASSED UNANIMOUSLY TO ELECT EMERY ZAHNER AS CHAIR.**

**MOVED (SMALL), SECONDED (HOFFMAN) AND PASSED UNANIMOUSLY TO ELECT CLIFF AUCTIONER AS VICE CHAIR.**

**MOVED (AUCTIONER), SECONDED (HOFFMAN) AND PASSED UNANIMOUSLY TO ELECT LORI SPIELMAN AS SECRETARY.**

2. Discussion re: Zoning Permit Requirements and Procedures.

Peter Williams, Building Official and Dennis Milanovich, First Selectman were in attendance. Peter Williams handed out copies of a memo he authored, dated 1/29/05 (copy attached). The planner noted that he had been approached in the last week or two by Mr. Milanovich and Mr. Williams, who suggested that language in the zoning regulations needed to be clarified with respect to the scope of areas subject to zoning approval and therefore, requiring a zoning permit before issuance of a building permit and /or a CZC before a certificate of occupancy. The planner had explained to the Building Official and the First Selectman that the regulations did not provide zoning with any authority beyond the statutes and that for instance, replacing a toilet did not require a Zoning Permits as the Planning & Zoning Commission has no authority by statute to regulate that activity. Therefore, changing the regulations would have no real effect. However, if the new language proposed would make it clearer for people to comprehend what is and is not regulated by zoning (and thus governed under CGS 8-3f) the planner has no objections to making the change. The planner also noted that the Building Official has previously attempted to resolve the matter but the First Selectman did not want Mr. Williams taking the lead. The Chairman noted to Mr. Milanovich that he had been waiting for language or recommendations from the Town Attorney for a year, and had not received any up to this time. The Commission's consensus was to have the planner draft proposed language to amend section 8.2 a (1) of the regulations to more closely reflect the language of CGS 8-3f.

3. Acceptance of Ordinance Codification Index.

**MOVED (AUCTIONER), SECONDED (HOFFMAN) AND PASSED UNANIMOUSLY TO AGREE TO ACCEPT THE ORDINANCE CODIFICATION INDEX.**

**MOVED (HEIDARI), SECONDED (SMALL) AND PASSED UNANIMOUSLY TO ADD TO THE AGENDA AN UPDATE ON THE STATUS OF THE DRB.**

Mr. Williams provided an update regarding the DRB's status, procedures they will use for reviews and the anticipated scope of subject areas they would look at. He will continue to coordinate with the planner.

4. Approval of Meeting Minutes:
  - a. December 27, 2004, meeting minutes.

**MOVED (SMALL), SECONDED (AUCTER) AND PASSED UNANIMOUSLY TO APPROVE THE DECEMBER 27, 2004 MEETING MINUTES.**

5. Correspondence:
  - a. Memo to Directors of Health from Frank Schaub dated 5/22/99.
  - b. Letter to M. Kement from Matt Davis dated, 12/29/04.
  - c. Memo to Dennis Milanovich from EDC dated, 12/29/04.
  - d. UConn Coop Extension system dated 1/3/05.
  - e. Letter to Henry Aberle from Matt Davis dated, 1/10/05.
  - f. Letter to Gerry Gillung from Matt Davis dated, 1/10/05.
  - g. LULA Steering Committee Meeting dated, 1/13/05.

**VII. ADJOURNMENT:**

**MOVED (AUCTER) SECONDED (SMALL) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING AT 11:00 PM.**

Respectfully Submitted,

Kristin C. Michaud  
Recording Secretary